

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA**

MICHAEL PARKER

Plaintiff,

v.

United States Postal Service

Defendant.

Civil Action No. 02 CV 3773

**DECLARATION OF  
HELEN J.S. WHITE**

I, Helen J.S. White, make the following declaration in lieu of affidavit pursuant to 28 U.S.C. § 1764. I am aware that this declaration is the legal equivalent of a statement under oath and that it will be filed with the U. S. District Court for the Southern District of Iowa.

1. By letter dated May 15, 2000, the Postal Service first received notice from the Law Office of Golomb & Honik, Attorneys-at-Law that the plaintiff was allegedly injured and that he intended to file a claim.

2. On May 24, 2000, a local postal official, Richard Teszner, sent to the Law Office of Golomb & Honik a Standard Form 95 ("Claim For Damage, Injury, or Death") under a cover letter providing instructions for the completion of the form.

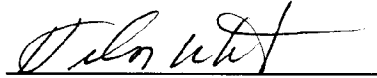
3. By letter dated November 26, 2001, Attorney Robert F. Datner stated that he was assuming the handling of the above-matter and enclosed medical bills and documents relative to the claim.

4. By letter dated December 5, 2001, Teszner sent a Standard Form 95 under cover letter to attorney Datner stating that the Postal Service had not received a properly completed claim form which specified a sum certain demand.

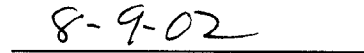
5. Richard Teszner, is the Tort Claims Coordinator for the Philadelphia Area and as such is responsible for mailing out blank Standard Form 95s and he would also receive the completed forms. Teszner never received a Standard Form 95 from the Law Office of Golomb & Honik regard Michael Parker. Richard Teszner first received a Standard Form 95 on May 3, 2002 via facsimile from the Law Offices of Datner & Murphy.

Plaintiff's administrative claim was denied by my certified letter to Attorney Datner dated August 5, 2002.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.



Helen J.S. White  
Attorney



Date

121 South Broad Street  
Ninth Floor  
Philadelphia, PA 19107  
215.985.9177  
215.985.4169 fax

- \* Ruben Honik
- \* Richard M. Golomb
- \* Nathan M. Murawsky
- \* Daniel C. Deitch
- \* Dianne M. Greitzer  
of Counsel

\* Also Member New Jersey Bar  
\* Also Member Florida Bar and  
New York Bar

**RECEIVED**  
**MAY 18 2000**

OFFICE OF THE POSTMASTER

**GOLOMB-HONIK**  
ATTORNEYS AT LAW

**RECEIVED**  
**MAY 19 2000**

May 15, 2000

**V.M.F.**  
**PHILADELPHIA, PA**

U.S. Postal Service  
30th and Market Street  
Philadelphia, PA 19121

Re: **Our File Number: 00-0086**  
**Date of Accident: 5/5/2000**

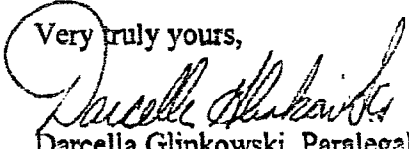
Dear Sir/Madam:

Please be advised that this office represents Michael Parker who sustained personal injuries and/or property damages on 5/5/2000.

Kindly contact the undersigned at once to advise us of the name of your insurance carrier, and inform them of this accident and this letter.

Please forward a copy of the Federal Tort Claims Act form for our completion.

Very truly yours,

  
Darcella Glinkowski, Paralegal  
GOLOMB & HONIK

DMG/dab  
Enclosure

Attachment 1



May 24, 2000

Law Offices  
Golomb & Honik  
121 South Broad Street 9<sup>th</sup> Floor  
Phila. PA 19107

Re: Case #00-0252A  
Attn: Darcella Glinkowski

Dear Ms. Glinkowski:

This will acknowledge receipt of the letter of representation for your client Michael Parker.


Enclosed is a claim form which must be completed in order to file with the Postal Service. Please do not leave any sections blank. The form must be completed on the front and reverse side and signed by the registered owner of the property, or claimant. Enter the exact amount of claim in section #12, items #12a, 12b and #12d, detailed instructions can be found on the reverse side of the form.

In support of a claim for personal injury the claimant must submit a written report by the attending physician showing the nature and extent of treatment, the degree of any disability, the prognosis, and the period of hospitalization or incapacitation. Be sure to include totaled, itemized, medical bills and reports for medical expenses incurred. Postal Service adjudicators also request that you submit a copy of the police report and the driver's/claimants insurance policy or at least the declaration page.

Please return the claim form and necessary supporting documents to the address shown in section #1 of the claim form. The Claim must be presented within two years after the claim accrues.

If you require additional information please contact me at (215) 895-9333.

Sincerely,

  
Richard A. Teszner  
Accident Claims Coordinator

2970 MARKET STREET ROOM 508  
PHILADELPHIA PA 19104-9331  
(215) 895-9333  
FAX: (215) 895-3547

Attachment 2

**DATNER & MURPHY, P.C.**

ATTORNEYS AT LAW  
7172 Marshall Road  
Upper Darby, Pennsylvania 19082  
Telephone: (610) 394-3000  
Facsimile: (610) 394-1213

Robert F. Datner, Esq.\*  
Sean A. Murphy, Esq.\*+

\* also admitted in NJ  
+ also admitted in DC and MA

Philadelphia office:  
1518 Walnut Street, Suite 1404  
Philadelphia, Pennsylvania 19102  
(215) 545-3400

November 26, 2001

Richard A. Teszner Accident Claims Coordinator  
2970 Market Street Room 508  
Philadelphia, PA 19104-9331

**RECEIVED**

DEC 3 2001

RE: Case No: 00-0252A  
Date of Loss: 5-5-00  
Your insured: United States Postal Service  
our Clients: Michael Parker

Dear Mr. Teszner

Please be advised that I have assumed the handling of the above matter.

Please direct all future inquiries to my attention.

Enclosed for your review please find the following medical specials and documents relative to the claim. Upon completion of your review please call me to discuss the possibility of an amicable settlement. It is our position that liability is not at issue and that the extent of damages should be the only area in need of negotiation. Thank you.

**MICHAEL PARKER**

1. Northeastern Healthcare Center records and bills ( 20 pages)	amount billed: 486.00 amount owed: 57.00
2. Frankford Hospital records and bill ( 13 pages)	amount billed: 972.34 amount owed:
3. Allied Medical Group report and bill (3 pages)	amount billed: 1755.000 amount owed: 1755.00
4. Dr. David Paolini	amount billed: 8895.00

(70 pgs)

amount owed: 8895.00

Yours very truly,

Datner & Murphy, P.C.

By:   
Robert F. Datner

ACCIDENT INVESTIGATION



Dec. 5, 2001

Law Offices  
Datner & Murphy  
7172 Marshall Road  
Upper Darby, PA 19082


Re: Case #00-0252A  
Attn: Robert F. Datner

Dear Mr. Datner:

This will acknowledge receipt of the letter of representation and special damages incurred by your client Michael Parker. However, as of this date this office has not received a properly completed claim form which would specify a sum certain demand. A blank claim form is enclosed.

If you require additional information please contact me at (215) 895-9933.

Sincerely,



Richard A. Teszner  
Accident Claims Coordinator

This letter should not be construed as an admission of liability, but as a willingness on the part of the Postal Service to fulfill a legal obligation to accept and consider all properly completed claims.

2870 MARKET STREET ROOM 550-C  
PHILADELPHIA PA 19104-9331  
(215) 885-8333  
FAX: (215) 895-8547

Attachment 4

**DATNER & MURPHY, P.C.**

ATTORNEYS AT LAW  
7172 Marshall Road  
Upper Darby, Pennsylvania 19082  
Telephone: (610) 394-3000  
Facsimile: (610) 394-1213

Robert F. Datner, Esq.\*  
Sean A. Murphy, Esq.\*

\* also admitted in NJ  
+ also admitted in DC and MA

Philadelphia office:  
1518 Walnut Street, Suite 1404  
Philadelphia, Pennsylvania 19102  
(215) 545-3400

May 3, 2002

United States Postal Service  
Richard A. Teszner Accident Claims Coordinator  
2970 Market Street Room 508  
Philadelphia, PA 19104-9331  
Sent via facsimile and regular mail: (215) 895-8676

RE: Case No: 00-0252A  
Date of Loss: 5-5-00  
Your insured: United States Postal Service  
our Clients: Michael Parker

Dear Mr. Teszner

Allow this letter to confirm our telephone conversation of this date wherein you advised that you have not yet received the properly executed claim form. I indicated that prior counsel had forwarded same and that I have a copy although the form did not indicate a demand amount.

You have agreed to accept my letter herein as a supplement to the previously submitted form, attached herewith, amended to include my demand of \$70,000.00 in settlement of this claim.

Do not hesitate to contact me should you have any questions.

Very truly yours,

  
Robert F. Datner

**RECEIVED**

MAY 3<sup>rd</sup> 2002



00-0252A

<b>CLAIM FOR DAMAGE, INJURY, OR DEATH</b>		INSTRUCTIONS: Please read carefully the instructions on reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.		FORM APPROVED OMB NO. 1106-0003	
1. Submit To Appropriate Federal Agency: <b>DELIVERY PROGRAMS ACCIDENT INVESTIGATION OFFICE U S POSTAL SERVICE 2870 MARKET STREET ROOM 508 PHILADELPHIA PA 19104-9331</b>		2. Name, Address of claimant and claimant's personal representative, if any. (See instructions on reverse.) (Number, street, city, State and Zip Code) <b>Michael Parker 6153 Haverford Ave. Philadelphia, PA 19150</b>		3. Name, Address of claimant and claimant's personal representative, if any. (See instructions on reverse.) (Number, street, city, State and Zip Code) <b>Gelomb &amp; Honik 121 S. Broad Street Ninth Floor Philadelphia, PA 19107</b>	
3. TYPE OF EMPLOYMENT <input type="checkbox"/> MILITARY <input checked="" type="checkbox"/> CIVILIAN	4. DATE OF BIRTH <b>7-9-65</b>	5. MARITAL STATUS <b>Separated</b>	6. DATE AND DAY OF ACCIDENT <b>5/5/00 - Friday</b>	7. TIME (A.M. OR P.M.) <b>11:30 A.M.</b>	
8. Basis of Claim (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof) (Use additional pages if necessary.) <b>Plaintiff was working on City of Philadelphia trash truck standing on riding step on back left of truck. Defendant Postal truck was coming the opposite direction. The trash truck was stopped and postal truck came to close. The postal truck's side mirror struck Plaintiff on @ side throwing him from truck</b>					
9. PROPERTY DAMAGE					
NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, street, city, State, and Zip Code) <b>N/A</b>					
BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF DAMAGE AND THE LOCATION WHERE PROPERTY MAY BE INSPECTED. (See instructions on reverse side.) <b>N/A</b>					
10. PERSONAL INJURY/WRONGFUL DEATH					
STATE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE NAME OF INJURED PERSON OR DECEDENT. <b>Left side rib area; low back; numbness in left leg; contusion low back</b>					
11. WITNESSES					
NAME		ADDRESS (Number, street, city, State, and Zip Code)			
<b>MR. Nate Bell</b>		<b>1246 E. Price Street Phila, PA 19138</b>			
12. (See instructions on reverse) AMOUNT OF CLAIM (In dollars)					
12a. PROPERTY DAMAGE <b>N/A</b>	12b. PERSONAL INJURY <b>To Be Provided</b>	12c. WRONGFUL DEATH <b>N/A</b>	12d. TOTAL (Failure to specify may cause forfeiture of your rights.)		
I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE ACCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.					
13a. SIGNATURE OF CLAIMANT (See instructions on reverse side.) <b>[Signature]</b>		13b. PRINTED NAME AND ADDRESS OF CLAIMANT (See instructions on reverse side.) <b>Michael Parker 6153 Haverford Ave. Philadelphia, PA 19150</b>		14. DATE OF CLAIM <b>5/5/00</b>	
CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM The claimant shall forfeit and pay to the United States the sum of \$2,000, plus double the amount of damages sustained by the United States. (See 31 U.S.C. 3729.)		CRIMINAL PENALTY FOR PRESENTING FRAUDULENT OR MAKING FALSE STATEMENTS Fine of not more than \$10,000 or imprisonment for not more than 5 years or both. (See 18 U.S.C. 287, 1001.)			

# PRIVACY ACT NOTICE

This Notice is provided in accordance with the Privacy Act, 5 U.S.C. 552a(e)(3), and concerns the information requested in the letter to which this Notice is attached.

A. Authority: The requested information is solicited pursuant to one or more of the following: 5 U.S.C. 301, 28 U.S.C. 501 et seq., 28 U.S.C. 2671 et seq., 28 C.F.R. Part 14.

- B. *Principal Purpose:* The information requested is to be used in evaluating claims.  
 C. *Routine Use:* See the Notices of Systems of Records for the agency to whom you are submitting this form for this information.  
 D. *Effect of Failure to Respond:* Disclosure is voluntary. However, failure to supply the requested information or to execute the form may render your claim "invalid".

## INSTRUCTIONS

Complete all items - Insert the word NONE where applicable

A CLAIM SHALL BE DEEMED TO HAVE BEEN PRESENTED WHEN A FEDERAL AGENCY RECEIVES FROM A CLAIMANT, HIS DULY AUTHORIZED AGENT, OR LEGAL REPRESENTATIVE AN EXECUTED STANDARD FORM 26 OR OTHER WRITTEN NOTIFICATION OF AN INCIDENT, ACCOMPANIED BY A CLAIM FOR MONEY DAMAGES IN A SUM CERTAIN FOR INJURY TO OR LOSS OF

Any instructions or information necessary in the preparation of your claim will be furnished, upon request, by the office indicated in item #1 on the reverse side. Complete regulations pertaining to claims asserted under the Federal Tort Claims Act can be found in Title 28, Code of Federal Regulations, Part 14. Many agencies have published supplemental regulations also. If more than one agency is involved, please state each agency.

The claim may be filed by a duly authorized agent or other legal representative, provided evidence satisfactory to the Government is submitted with said claim establishing express authority to act for the claimant. A claim presented by an agent or legal representative must be presented in the name of the claimant. If the claim is signed by the agent or legal representative, it must show the title or legal capacity of the person signing and be accompanied by evidence of his/her authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian or other representative.

If claimant intends to file claim for both personal injury and property damage, claim for both must be shown in item 12 of this form.

The amount claimed should be substantiated by competent evidence as follows:

- (a) In support of the claim for personal injury or death, the claimant should submit a written report by the attending physician, showing the nature and extent of injury, the nature and extent of treatment, the degree of permanent disability, if any, the prognosis, and the period of hospitalization, or incapacitation, attaching itemized bills for medical, hospital, or burial expenses actually incurred.

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden,

to Director, Tort Branch  
 Civil Division  
 U.S. Department of Justice  
 Washington, DC 20530

and to the  
 Office of Management and Budget  
 Paperwork Reduction Project (1105-0006)  
 Washington, DC 20503

## INSURANCE COVERAGE

In order that subrogation claims may be adjudicated, it is essential that the claimant provide the following information regarding the insurance coverage of his vehicle or property.

15. Do you carry accident insurance? ☐ Yes, if yes, give name and address of insurance company (Number, street, city, state, and Zip Code) and policy number. ☐ No

Workmen's Comp - CompService, Inc 8th Fl.  
 Claim # 200-01828 1800 JFK Blvd.  
 Phila, PA 19105 Ins'd: City of Phila.

16. Have you filed claim on your insurance carrier in this instance, and if so, is it full coverage or deductible?

Yes. See above. Adjuster is  
 LISA Matrisian  
 Subrogation Specialist

17. If deductible, state amount

N/A

18. If claim has been filed with your carrier, what action has your insurer taken or proposes to take with reference to your claim? (If necessary that you ascertain these facts)

Payment of medical bills & lost wages

19. Do you carry public liability and property damage insurance? ☐ Yes, if yes, give name and address of insurance carrier (Number, street, city, state, and Zip Code) ☐ No

No

ST. LOUIS  
NATIONAL TORT CENTER



August 5, 2002

**CERTIFIED NO. 7001 2510 0007 0878 4664**  
**RETURN RECEIPT REQUESTED**

Robert F. Datner  
Attorneys at Law  
Datner & Murphy, P.C.  
7172 Marshall Road  
Upper Darby, Pennsylvania 19082

Re: Your client: Michael Parker

Dear Mr. Datner,

We have considered the administrative claim you filed on behalf of your above-referenced client under the provisions of the Federal Tort Claims Act as a result of injuries allegedly sustained in an accident on May 5, 2000 in Philadelphia, Pennsylvania.

As you may know, the FTCA requires an injured party, who was harmed by the negligence of a federal government employee acting within the scope of his employment, to present an administrative claim to the appropriate federal agency, and to give that agency an opportunity to act on that claim, before the injured party is authorized to bring suit. See 28 U.S.C. § 2675; 39 C.F.R. § 912.5(b). The statute mandates that the agency be given a six-month period to act on a claim as a prerequisite to suit under the FTCA. *Id.* In this case, the agency received your claim with sum certain on May 3, 2002 and the lawsuit was filed on May 15, 2002. Therefore your client's administrative claim is denied.

As you know, the Postal Service is not legally obligated to pay all losses which may occur, but only those due in some way to the negligent or wrongful act or omission of an employee while acting within the scope of his employment. 28 USC § 1346 (b).

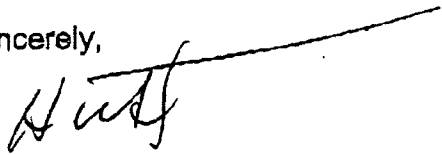
Nothing in this letter should be construed to limit or waive any defenses that may be available to the United States should litigation ensue.

P. O. Box 86640  
ST. LOUIS, MO 63186-6640  
TEL: 314/872-5120  
FAX: 314/872-5183

Attachment 6

Regulations require us to inform you that if your clients are dissatisfied with the final action on their claims, they must file suit against the United States of America in an appropriate United States District Court not later than six (6) months from the date of mailing this letter, which is the date shown above.

Sincerely,

A handwritten signature in cursive script, appearing to read "H. White", is written over a horizontal line.

Helen J.S. White  
Attorney

bcc: Nancy L. Griffin, AUSA